

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

ROY HIGHTOWER,

Plaintiff,

V.

**DEPARTMENT OF
CORRECTIONS, et al.,**

Defendants.

**CIVIL ACTION NO.:
2:07-CV-558-MHT**

**DEFENDANTS' MOTION TO DISMISS
FOR FAILURE TO STATE A CLAIM OR, IN THE ALTERNATIVE,
MOTION FOR A MORE DEFINITE STATEMENT**

COME NOW Defendants in the above-styled action and respectfully move this Court as follows:

1. Pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, Defendants hereby move this Court to dismiss Plaintiff's Complaint for failure to state a claim. Plaintiff has failed to allege the basic elements of a claim against the Defendants as a matter of law.

2. Alternatively, Defendants move pursuant to Rule 12(e) of the Federal Rules of Civil Procedure for an Order from this Court requiring Plaintiff to provide a more definite statement as to the alleged claim against the Defendants.

3. In support of their Motion, the Defendants submit the brief filed contemporaneously herewith.

WHEREFORE, premises considered, Defendants respectfully request that the Court dismiss the Plaintiff's Complaint or alternatively, Defendants request that the Court require the Plaintiff to provide a more definite statement as to the claims against the Defendants.

Respectfully submitted,

/s/ Abigail H. Avery

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John B. Holmes, III

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Department of Corrections, and

Richard F. Allen, Commissioner

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CERTIFICATE OF SERVICE

I hereby certify that on the 29th day of August, 2007, a true and correct copy of the foregoing was electronically filed with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

For the Plaintiff:

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/s/ Abigail H. Avery
Of Counsel